

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL SELBY, Individually and as
Personal Representative of the ESTATE
OF PAULA MARIE SELBY, Deceased,

Plaintiff,

vs.

NATIONAL RAILROAD
PASSENGER CORPORATION,
d/b/a/ AMTRAK,

Defendant.

No.

COMPLAINT

PLAINTIFFS ALLEGE:

I.

1.1 Jurisdiction for this cause of action against Amtrak is based on 28 U.S.C. § 1331, federal question jurisdiction, and 28 U.S.C. § 1349, which provides for original jurisdiction over corporations where the United States owns more than 50 percent of the capital stock. The United States owns more than 50 percent of defendant Amtrak's capital stock.

1.2 Venue is proper in the United States District Court for the Western District of Washington under 28 U.S.C. § 1391(b) and (c)(2) and 49 U.S.C. § 24301. The defendant, Amtrak,

COMPLAINT-1.

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1 resides in and is subject to this court's personal jurisdiction because they transact business within
2 the judicial district that comprises Pierce County, Washington, and the train ticket giving rise to
3 defendant's common carrier liability was purchased by plaintiff in Pierce County, Washington.
4 Medical treatment provided to Ms. Selby up to and including the time of her death occurred in the
5 judicial district that comprises Pierce County, Washington. Ms. Selby died in the judicial district
6 that comprises Pierce County, Washington. The probate action was filed and the administrator of
7 Ms. Selby's estate are also located in the above judicial district that comprises Pierce
8 County, Washington.

9 II.

10 2.1 At all times material hereto, Plaintiff Daniel Selby and the late Paula Marie Selby
11 were husband and wife and residents of Graham, Washington, County of Pierce.

12 2.2 Defendant is the National Railroad Passenger Corporation, d/b/a Amtrak,
13 hereinafter referred to as "Amtrak."

14 2.3 Defendant Amtrak is a private corporation, of which over 50% ownership is vested
15 in the United States of America.

16 2.4 Defendant Amtrak owned, operated and controlled the train, including all ingress
17 and egress of train passengers on which the injury hereafter described occurred.

18 2.5 Defendant, Amtrak controlled the agents and employees who interacted with
19 plaintiff Selby and caused the injury hereafter described.

20 III.

21 3.1 On or about January 19, 2015 Paula Marie Selby purchased an Amtrak ticket in
22 Pierce County Washington for roundtrip transportation between Tacoma, Washington and Eugene
23 Oregon. On January 19, 2015 Ms. Selby was a passenger on an Amtrak train on a trip from
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1 Tacoma, Washington to Eugene, Oregon. During a stopover in Portland, Oregon Ms. Selby exited
2 the train's passenger car to use the restroom. As Ms. Selby attempted to re-enter the passenger car
3 she asked for assistance re-entering the car from an Amtrak employee. Specifically, Ms. Selby
4 requested a stepping stool from the Amtrak employee in order to safely re-enter the passenger car
5 of the train. The Amtrak employee negligently refused to provide a stepping stool or otherwise
6 provide assistance to Ms. Selby in re-entering the train. As a direct and proximate result of
7 Amtrak's negligence in failing to provide a stepping stool or otherwise provide assistance to
8 Ms. Selby re-entering the train, she fell and injured her right knee and ankle.

9 3.2 As a direct and proximate result of the aforementioned negligence of Amtrak in
10 causing the fall Ms. Selby was diagnosed with a right knee lateral meniscus tear and subsequently
11 underwent surgery for this condition on June 28, 2016.

12 3.3 As a direct and proximate result of the aforementioned negligence of Amtrak in
13 causing the fall and plaintiff's right knee injury Ms. Selby died on July 9, 2016 from complications
14 associated with the right knee surgery performed on June 28, 2016.

15 3.4 The defendant Amtrak, and its agents and employees, as a common carrier had the
16 duty to exercise the highest degree of care consistent with the practical operation of its type of
17 transportation and its business as a common carrier. Defendant Amtrak violated this and other
18 duties of care owed to the plaintiff by failing to provide Ms. Selby with a stepping stool or
19 otherwise provide her assistance re-entering the train. The failure of the defendant to do so created
20 an unsafe and dangerous condition, resulting in Ms. Selby falling and injuring her right knee while
21 attempting to re-enter the train. Said right knee injury subsequently required surgery and
22 complications arising therefrom led directly to Ms. Selby's death.



1 IV.

2 4.1 A proximate cause of the above-described incident was the negligence and fault of
3 the defendant, National Railroad Passenger Corporation, Amtrak described above.

4 4.2 A proximate cause of Ms. Selby's right knee injury was the negligence and fault of
5 the defendant, National Railroad Passenger Corporation, Amtrak described above.

6 4.3 A proximate cause of Ms. Selby right knee surgery was the negligence and fault of
7 the defendant, National Railroad Passenger Corporation, Amtrak described above.

8 4.4 A proximate cause of the complications that lead to Ms. Selby's death following
9 the right knee surgery was the negligence and fault of the defendant, National Railroad Passenger
10 Corporation, Amtrak described above.

11 4.5 A proximate cause of Ms. Selby's death was the negligence and fault of the
12 defendant, National Railroad Passenger Corporation, Amtrak described above

13 V.

14 5.1 As a direct and proximate result of the negligence, fault, carelessness, and unlawful
15 conduct of the defendant, Plaintiff Paula Selby sustained personal injuries, conscious pain and
16 suffering, both physical and mental, which necessitated medical care and treatment preceding her
17 death on June 9, 2016. This includes, but is not limited to, the pain, suffering and disability that
18 existed before and after Ms. Selby's right knee surgery that occurred on or about June 28, 2016.

19 5.2 As a direct and proximate result of the negligence, fault, carelessness, and unlawful
20 conduct of the defendant, The Estate of Paula Marie Selby, Daniel Selby, individually, and the
21 beneficiaries of the Selby Estate, including, but not limited to, Nichelle Long, Christopher Selby
22 and Daniel Selby, suffered compensable injuries, including, but not limited to, the pre- and post-
23 death loss of consortium, mental and physical pain and suffering and other economic and non-
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1 economic damages that will persist for an indefinite period of time, if not permanently, to be fully
2 proven at trial.

3 **VI.**

4 6.1 As a direct and proximate result of the negligence, fault, carelessness and unlawful
5 conduct of the defendant, the plaintiff has been specially and generally damaged in an amount to
6 be fully proven at the time of trial.

7 6.2 To the extent allowed by law, Plaintiff prays for a judgment against the defendant
8 for all pre-death and post death damages allowed under law, including attorneys' fee and costs.

9 WHEREFORE, Plaintiff prays for judgment against the Defendant, for such sums of
10 money as will reasonably and justly compensate him, the Estate of Paula Marie Selby and the
11 Estate beneficiaries for damages sustained as hereinbefore alleged, together with their costs and
12 disbursements herein to be taxed, and for prejudgment interest.

13 DATED this 22nd day of December, 2016.

14 EVERGREEN PERSONAL INJURY COUNSEL

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16 JEREMY A. JOHNSTON, WSBA# 34149
17 JOHN R. CHRISTENSEN, WSBA# 18860
18 Attorneys for Plaintiff

